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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,969	12/30/2003	Angel Stoyanov	25340	8812

28624 7590 06/08/2007  
WEYERHAEUSER COMPANY  
INTELLECTUAL PROPERTY DEPT., CH 1J27  
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FEDERAL WAY, WA 98063

EXAMINER
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HAND, MELANIE JO

ART UNIT	PAPER NUMBER
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3761

NOTIFICATION DATE	DELIVERY MODE
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06/08/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@weyerhaeuser.com

**Office Action Summary**

Application No.

10/748,969

Applicant(s)

STOYANOV ET AL.

Examiner

Melanie J. Hand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 March 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7,9,11-13 and 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,14-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments, see Remarks, filed March 21, 2007, with respect to the rejection(s) of claim(s) 1-4, 9, 10 and 14-17 under 35 U.S.C. 102/103, and claims 5, 6 and 8 under 35 U.S.C 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a newly found.

### *Claim Rejections - 35 USC § 102*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Claim Rejections - 35 USC § 103*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6, 8, 9 and 14-17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hansen et al (U.S. Patent No. 5,589,256).

With respect to **claim 1**: Hansen teaches an absorbent product comprising cellulosic fibers reacted with an effective amount of a crosslinking agent in the presence of an effective amount of a C4-C12 polyol. (Col. 3, lines 42-45,62, Col. 23, lines 54-56, Col. 35, lines 35,36) When the structure or composition recited in the reference is substantially identical to that of the claims of

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the instant invention, claimed properties or functions presumed to be inherent (MPEP 2112-2112.01). A prima facie case of either anticipation or obviousness has been established when the reference discloses all the limitations of a claim (in this case, individualized intrafiber crosslinked cellulosic fibers reacted with effective amounts of polyol and crosslinking agent, as such amounts are defined in the claimed disclosure) except for a property or function (in the present case, a whiteness index) and the examiner can not determine whether or not the reference inherently possesses properties that anticipate or render obvious the claimed invention but has a basis for shifting the burden of proof to applicant, as per *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980). characterized by a Whiteness Index, ( $WI_{CDM-L}$ ), greater than about 69.0. The absorbent product of Hansen anticipates the claimed product.

Alternatively, it would be obvious to one of ordinary skill in the art to modify the absorbent product of Hansen so as to have a whiteness index in the claimed range with a reasonable expectation of success.

With respect to **claim 2**: The individualized intrafiber crosslinked cellulosic fibers inherently have an L value greater than about 94.5. The claimed L value is a function of the whiteness index as set forth in the claimed disclosure, therefore an L value in the claimed range is also an inherent property of the claimed product and the product of Hansen. The basis for this inherency argument and basis for shifting burden of proof to the applicant is stated *supra* with respect to claim 1.

With respect to **claim 3**: The intrafiber crosslinked cellulosic fibers inherently have an "a" value greater than about -1.55 and less than about -0.60. The claimed "a" value is determined by the composition or the product which affects the product's color, and hence its "a" value, therefore

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an "a" value in the claimed range is also an inherent property of the claimed product and the product of Hansen. The basis for this inherency argument and basis for shifting burden of proof to the applicant is stated *supra* with respect to claim 1.

With respect to **claim 4**: The intrafiber crosslinked cellulosic fibers taught by Hansen inherently have a b value less than about 8.5. The claimed "b" value is a function of the whiteness index as set forth in the claimed disclosure, therefore a "b" value in the claimed range is also an inherent property of the claimed product and the product of Hansen. The basis for this inherency argument and basis for shifting burden of proof to the applicant is stated *supra* with respect to claim 1.

With respect to **claims 5,6,8**: Hansen teaches that the crosslinking agent is citric acid, an  $\alpha$ -hydroxy polycarboxylic acid. (Col. 35, lines 35,36)

With respect to **claim 9**: The polyol is an acyclic polyol, namely pentaerythritol. (Col. 4, lines 5-7)

With respect to **claim 14**: The intrafiber crosslinked cellulosic fibers inherently have a brightness greater than about 79.0% ISO brightness. When the structure or composition recited in the reference is substantially identical to that of the claims of the instant invention, claimed properties or functions presumed to be inherent (MPEP 2112-2112.01). A prima facie case of either anticipation or obviousness has been established when the reference discloses all the limitations of a claim (in this case, individualized intrafiber crosslinked cellulosic fibers reacted with effective amounts of polyol and crosslinking agent, as such amounts are defined in the

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claimed disclosure) except for a property or function (in the present case, a percent ISO brightness) and the examiner can not determine whether or not the reference inherently possesses properties that anticipate or render obvious the claimed invention but has a basis for shifting the burden of proof to applicant, as per *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980). The absorbent product of Hansen anticipates the claimed product. Alternatively, it would be obvious to one of ordinary skill in the art to modify the absorbent product of Hansen so as to have a percent ISO brightness in the claimed range with a reasonable expectation of success.

With respect to **claim 15**: The product further comprises fluff pulp fibers. (Col. 23, lines 54-56)

With respect to **claim 16**: The product further comprises superabsorbent material. (Col. 23, lines 54-56)

With respect to **claim 17**: The product is an infant diaper. (Fig. 10)

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen et al (U.S. Patent No. 5,589,256).

With respect to **claim 10**: Hansen teaches polyols (Col. 3, lines 42-45,62), but does explicitly teach sorbitol. However, since sorbitol is an example of a polyol, it would be obvious to one of ordinary skill in the art to modify the fiber taught by Hansen such that the polyol added is sorbitol with a reasonable expectation of success.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand

Examiner

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May 30, 2007

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

